

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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UNITED STATES OF AMERICA

v.

JOSE PENA a/k/a “Gucci”

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**Criminal No. 19-545 (SRC)**

**OPINION**

**CHESLER, District Judge**

On January 31, 2022, Defendant filed a motion for a reduction in his sentence under the First Step Act, 18 U.S.C. § 3582(c)(1)(A). The United States of America (the “Government”) submitted a respond in opposition to Defendant’s motion on February 18, 2022. On February 22, 2022, the Court issued an Order and an accompanying Opinion denying Defendant’s motion. (ECF Nos. 27–28.) In concluding that Defendant’s requested relief was not warranted, the Court found, *inter alia*, that Defendant’s medical conditions—which includes mild asthma and anxiety—did not constitute “extraordinary and compelling” circumstances under the statute, notwithstanding any possible presence of coronavirus at Defendant’s facility. The Court emphasized that this was particularly true given that Defendant had the opportunity in March 2021 to receive the Moderna vaccine against COVID-19, but declined to avail himself of it. Furthermore, the Court concluded that, even if these medical conditions constituted extraordinary and compelling circumstances under the statute, the Section 3553(a) sentencing factors weigh against his release.

On March 4, 2022, and after issuing its February 22 Order and the accompanying Opinion, the Court received a letter from Defendant supplementing his prior application. The Court

reviewed the submission and concluded that nothing therein dictated reconsideration of the Court's earlier decision. (ECF No. 30.)

Presently before the Court is another letter from Defendant, filed on March 15, 2022, concerning his January 31, 2022 application. Defendant's most recent submission repeats his prior arguments and does not provide the Court any reason to reconsider its earlier decision. Defendant has served a minimal portion of the sentence rendered in connection with his very serious crimes, and he has not alleged any reason to believe that his medical condition is even remotely serious enough to warrant relief. Accordingly, Defendant's application for relief remains **DENIED**.

/s/ Stanley R. Chesler  
STANLEY R. CHESLER  
United States District Judge

Dated: April 1, 2022